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| 09/883,619  | 06/18/2001  | Robert Martin Wynalda JR. | 1949-A-CIP          | 5116             |
| 27542   | 7590        | 03/16/2004                | EXAMINER            |                  |
| SAND & SEBOLT<br>AEGIS TOWER, SUITE 1100<br>4940 MUNSON STREET, NW<br>CANTON, OH 44718-3615 |             |                           | SIMONE, CATHERINE A |                  |
|   |             |                           | ART UNIT            | PAPER NUMBER     |
|   |             |                           | 1772                |                  |

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/883,619

Applicant(s)

WYNALDA ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 29, 2003 has been entered.

### ***Withdrawn Rejections***

2. The 35 U.S.C. 102 rejection of claims 1-4, 6, 10, 16 and 17 as anticipated by Roze has been withdrawn due to the Applicant's amendment filed on 12/29/03.
3. The 35 U.S.C. 103 rejection of claims 5 and 7 over Roze in view of House has been withdrawn due to the Applicant's amendment filed on 12/29/03.
4. The 35 U.S.C. 103 rejection of claim 11 over Roze in view of Udwin et al. has been withdrawn due to the Applicant's amendment filed on 12/29/03.
5. The 35 U.S.C. 103 rejection of claims 8, 9 and 12-15 over Roze in view of Youngs has been withdrawn due to the Applicant's amendment filed on 12/29/03.
6. The 35 U.S.C. 103 rejection of claim 18 over Roze in view of Gelardi et al. has been withdrawn due to the Applicant's amendment filed on 12/29/03.
7. The 35 U.S.C. 103 rejection of claim 19 over Roze in view of House and in view of Gelardi et al. has been withdrawn due to the Applicant's amendment filed on 12/29/03.

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8. The 35 U.S.C. 103 rejection of claim 20 over Roze in view of Youngs has been withdrawn due to the Applicant's amendment filed on 12/29/03.

9. The 35 U.S.C. 103 rejection of claim 7 over Brinkhurst '452 and Brinkhurst '450 has been withdrawn due to the Applicant's arguments filed on 12/29/03.

*Claim Rejections - 35 USC § 102*

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 1-6, 10, 16-19, 21 and 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Brinkhurst (GB 2 274 452).

Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a cover having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12), and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine having an outer surface and an inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; the inner and outer surfaces being opposite surfaces of a unitary spine body; a page having a structure that is adapted to hold at least one item of recorded media (Fig. 4, #13); no portion of the page overlying the outer surface of the spine (see page 4, lines 26-28 and page 5, lines 1-2); the page having at least one edge (Fig. 4, #13); the edge of the page (Fig. 4, #13) being connected to the inner surface of the outer spine (Fig. 4, #8) to connect the page to the cover (see page 4, lines 26-28 and page 5, lines 1-2); and the front and rear cover members being moveable between open and closed positions. Regarding **claim 2**, the structure of each page (Fig. 5, #13) is

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adapted to hold two items of recorded media; the structure holding the items of recorded media on opposite sides of the page (see page 9, lines 10-14). Regarding **claim 3**, each page includes two page halves connected together (Fig. 5, #13). Regarding **claim 4**, each page is substantially rigid (Fig. 5, #13). Regarding **claim 5**, the cover is fabricated from paperboard (see page 5, line 27). Regarding **claim 6**, each page is connected to the cover with an adhesive (see page 4, lines 26-28 and page 5, lines 1-2). Regarding **claim 10**, the page halves are connected together with adhesive (see page 5, lines 1-2). Regarding **claim 16**, note a further comprising second page having a structure adapted to hold at least one item of recorded media; the second page having at least one edge; the edge of the second page connected to the inner surface of the spine (see page 6, lines 20-25). Regarding **claims 17 and 18**, note the cover defines a hinge between the front cover member and the spine and a hinge between the rear cover member and the spine (see page 5, lines 11-14). Regarding **claims 21 and 22**, note the front and rear covers (Fig. 4, #11 and #12) are free of connections to any pages.

Regarding **claim 19**, Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a paperboard cover (see page 5, line 27) having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12), and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the outer spine being a unitary body having an outer surface and an inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; the cover defining a hinge between the front cover member and the outer spine and a hinge between the rear cover member and the outer spine (see page 6, lines 20-25); each hinge being a living hinge; a page having a structure adapted to hold two items of recorded media on opposite sides of the page (Fig. 4, #13; also see page 6, lines 19-21); no portion of the page overlying the outer surface of the spine (see page 4, lines 26-28 and page 5, lines 1-2); the page having at least one edge (Fig. 4, #13); the edge of the page (Fig. 4, #13) being connected to the inner surface of the outer

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spine (Fig. 4, #8) with an adhesive to connect the page to the cover (see page 4, lines 26-28 and page 5, lines 1-2); and the front and rear cover members being moveable between open and closed positions.

12. **Claims 1-6** are rejected under 35 U.S.C. 102(b) as being anticipated by Brinkhurst (GB 2 274 450).

Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a cover having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12), and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine having an outer surface and an inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; the inner and outer surfaces being opposite surfaces of a unitary body; a page having a structure that is adapted to hold at least one item of recorded media (Fig. 4, #13); no portion of the page overlying the outer surface of the spine (see page 4, lines 12-15); the page having at least one edge (Fig. 4, #13); the edge of the page (Fig. 4, #13) being connected to the inner surface of the outer spine (Fig. 4, #8) to connect the page to the cover (see page 4, lines 12-15); and the front and rear cover members being moveable between open and closed positions. Regarding **claim 2**, the structure of each page (Fig. 5, #13) is adapted to hold two items of recorded media; the structure holding the items of recorded media on opposite sides of the page (see page 7, lines 15-17). Regarding **claim 3**, each page includes two page halves connected together (Fig. 5, #13; also see page 7, lines 14-17). Regarding **claim 4**, each page is substantially rigid (Fig. 5, #13). Regarding **claim 5**, the cover is fabricated from paperboard (see page 5, line 3). Regarding **claim 6**, each page is connected to the cover with an adhesive (see page 4, lines 12-15).

13. **Claim 1** is rejected under 35 U.S.C. 102(b) as being anticipated by Hanselmann (1,186,312).

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Hanselmann discloses a storage container for holding items of recorded media; the storage container comprising a cover having a front cover member (Figs. 1 and 3, element A), a rear cover member (Figs. 1 and 3, element A'), and an outer spine (Fig. 3, element B) disposed between the front and rear cover members; the spine having an outer surface and inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; the inner and outer surfaces being opposite surfaces of a unitary spine body; a page having a structure that is adapted to hold at least one item of recorded media (Figs. 1 and 3, element D); no portion of the page overlying the outer surface of the spine; the page having at least one edge; the edge of the page being connected to the inner surface of the outer spine to connect the page to the cover; and the front and rear cover members being moveable between open and closed positions.

14. **Claims 1, 17, 18 and 21** is rejected under 35 U.S.C. 102(b) as being anticipated by Dudzik (GB 2 154 550).

Dudzik discloses a storage container for holding items of recorded media; the storage container comprising a cover having a front cover member (Fig. 1, element 11), a rear cover member (Fig. 1, element 13), and an outer spine (Fig. 1, element 12) disposed between the front and rear cover members; the spine having an outer surface and inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed (Fig. 2, element 12); the inner and outer surfaces being opposite surfaces of a unitary spine body; a page having a structure that is adapted to hold at least one item of recorded media (Fig. 1, element 14); no portion of the page overlying the outer surface of the spine; the page having at least one edge; the edge of the page (Fig. 3, element 14) being connected to the inner surface of the outer spine (Fig. 3, element 12) to connect the page to the cover (see col. 2, lines 68-70); and the front and rear cover members being moveable between open and closed positions. Regarding **claim 17**, note the cover defines a hinge between the front cover

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member and the spine and a hinge between the rear cover member and the spine (see col. 2, lines 72-80). Regarding **claim 18**, note each hinge is a living hinge (see col. 2, lines 72-75). Regarding **claim 21**, note the front and rear covers (Fig. 3, elements 11 and 13) are free of connections to any pages.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 8, 9 and 12-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452) or Brinkhurst (GB 2 274 450) in view of Youngs (4,850,731).

Both Brinkhurst '452 and Brinkhurst '450 disclose Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a cover having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12), and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine having an outer surface and an inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; a page having a structure that is adapted to hold at least one item of recorded media (Fig. 4, #13); the page having at least one edge (Fig. 4, #13); the edge of the page (Fig. 4, #13) being connected to the inner surface of the outer spine (Fig. 4, #8) to connect the page to the cover; and the front and rear cover members being moveable between open and closed positions. However, both fail to disclose the page halves connected with locking fingers and a literature card disposed between the page halves. Youngs teaches that page halves being connected with locking fingers (Fig. 4, #70) and a literature card (Fig.



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4, #12) disposed between the page halves is old and well-known in the analogous art for the purpose of producing a storage container for holding recorded media.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided locking fingers to connect the page halves and a literature card disposed between the page halves in either Brinkhurst '450 or Brinkhurst '452 as suggested by Youngs in order to produce a storage container for holding recorded media.

17. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452) or Brinkhurst (GB 2 274 450) in view of Udwin et al. (6,106,015).

Both Brinkhurst '452 and Brinkhurst '450 disclose Brinkhurst discloses a storage container for holding items of recorded media, the storage container comprising a cover having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12), and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine having an outer surface and an inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; a page having a structure that is adapted to hold at least one item of recorded media (Fig. 4, #13); the page having at least one edge (Fig. 4, #13); the edge of the page (Fig. 4, #13) being connected to the inner surface of the outer spine (Fig. 4, #8) to connect the page to the cover; and the front and rear cover members being moveable between open and closed positions. However, both Brinkhurst '452 and Brinkhurst '450 fail to disclose the page halves being connected with a weld. Udwin et al. teaches it is old and well-known in the analogous art to have welding (see col. 6, lines 10-12) for the purpose of providing secure attachment of each page halve in producing a storage container for recorded media.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided a weld in either Brinkhurst '450 or Brinkhurst '452

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as suggested by Udwin et al. in order to provide a secure attachment of each page halve to produce a storage container for recorded media.

18. **Claims 20 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkhurst (GB 2 274 452) or Brinkhurst (GB 2 274 450) in view of Youngs.

Both Brinkhurst '450 and Brinkhurst '452 disclose a storage container for holding items of recorded media; the storage container comprising a cover having a front cover member (Fig. 4, #11), a rear cover member (Fig. 4, #12), and an outer spine (Fig. 4, #8) disposed between the front and rear cover members; the spine having an outer surface and an inner surface, the outer surface of the outer spine being exposed for viewing when the cover is closed; a page having a structure (Fig. 4 and 5, #13) adapted to hold two items of recorded media on opposite sides of the page; the page (Fig. 4, #13) having at least one edge; the edge of the page being connected to the inner surface of the outer spine (Fig. 4, #8) with an adhesive to connect the page to the cover; each page (Fig. 4, #13) being substantially rigid and including two halves; and the front (Fig. 4, #11) and rear (Fig. 4, #12) cover members being moveable between open and closed positions. However, both Brinkhurst '452 and Brinkhurst '450 fail to disclose a literature card being disposed between the page halves. Youngs teaches it is old and well-known in the analogous art to have a literature card (Fig. 4, #12) being disposed between page halves for the purpose of producing a storage container for holding items of recorded media.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided a literature card being disposed between the page halves in either Brinkhurst '450 or Brinkhurst '452 as suggested by Youngs in order to produce a storage container for holding items of recorded media.

Regarding **claim 23**, note in Brinkhurst '450 and Brinkhurst '452 the front and rear covers are free of connections to any pages (Fig. 4, #11 and #12).

*Response to Arguments*

19. Applicant's arguments filed December 29, 2003 have been fully considered but they are not persuasive. Applicant states that, "the Applicant has amended the independent claims to recite that no portion of Applicant's pages overlie the outer surface of the spine. The Brinkhurst devices uses clips 23 and 24 that overlie the outer surface of the spine. Applicant's invention avoids these types of clips." However, it is to be pointed out that there are other embodiments taught in both Brinkhurst '450 (see page 4, lines 12-15) and Brinkhurst '452 (see page 4, lines 26-28 and page 5, lines 1-2) that suggest an adhesive *not clips* to connect the edge of the page to the spine. Therefore, no portion of the page would overlie the outer surface of the spine when an adhesive is used to connect the edge of the page to the spine. Thus, Brinkhurst '452 and Brinkhurst '450 clearly teaches the present invention as presently claimed.

*Allowable Subject Matter*

20. Claim 7 is allowed. The following is a statement of reasons for the indication of allowable subject matter: The prior art [Brinkhurst (GB 2 274 450) and Brinkhurst (GB 2 274 452)] fails to teach or suggest the edge of the page connected to the cover being V-shaped in cross-section to provide a pocket for the adhesive.

*Conclusion*

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Catherine Simone  
Examiner  
Art Unit 1772  
February 5, 2004



HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
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2/21/04